

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

(Continuation of California Notice Register 7-Z and 11-Z, No. Z05-0207-10 and subsequent date change, and Meeting of April 7, 2006.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 713, 1050, 2000, 2020, 2150.2, 3005.5, 3800 and 4150, Title 14, CCR, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 1008, 2000, 2001, 3005.5, 3511, 3800, 4150, 4190 and 4800 of said Code, proposes to amend Section 679, Title 14, California Code of Regulations, relating to Wildlife Rehabilitation.

Updated Informative Digest/Policy Statement Overview

(NOTE: Updated Informative Digest changes shown in bold face type.)

At the December 9, 2005, commission meeting in Concord, the Commission was asked by members of the public to take this regulation change proposal off the consent calendar and continue it until the February 3, 2006 meeting to allow interested parties time to have input. After working with interested parties the Department has made some minor changes and is re-submitting this package.

The proposal is to establish a specific application process (including associated forms) to approve new wildlife rehabilitation facilities. Documentation is required from the applicant to assist the Department in determining the need for such new facilities. The proposal also establishes an inspections and processing fee and describes a consistent process through the use of non-profit organization to conduct inspections.

The proposal identifies specific training requirements to be met by wildlife rehabilitation facilities and their personnel.

Minor editorial changes are made to clarify and update existing regulatory language regarding wildlife rehabilitation care standards.

Existing regulation allows the department to issue a (MOU) Memorandum of Understanding to wildlife rehabilitation facilities that meet the minimum standards set forth in the 1993 Wildlife Rehabilitation Minimum Standards and Accreditation Program (WRMSAP) manual but does not describe a specific application process. The regulation change proposal identifies a specific process (including associated forms) by which the Department can better evaluate the need for such facilities and the applicant's qualifications for conducting wildlife rehabilitation activities. The proposal establishes a non-refundable application processing fee and a one-time facility inspection fee predetermined by the department pursuant to Fish and Game Code Sections 713 and 2150.2. Payment of an application processing and an inspection fee is proposed to offset the cost of reviewing and processing a wildlife rehabilitation permit. The Department has provided information in the proposed Fiscal Impact Analysis (III, (a), 1, of this document).

New wildlife rehabilitation permits will be issued on an "as needed" basis only and will remain subject to approval by the regional manager within the region where the facility would be located. The department will request applicants obtain two letters from already permitted rehabilitation facilities (nearest to the location of the proposed facility). This requirement will allow the department to determine if there is a need for a new facility. A letter of intent will be required as part of the application package to assist the department in assessing the applicants qualifications with regard to education experience and available facilities. Application validity is one year from date of approval; if the facility is not operational in this time frame, the applicant's permit will be revoked.

The department is requiring the applicant have a minimum of two years or 400 hours of experience working under a currently-permitted rehabilitation facility. The applicant must have documentation from the permitted facility that they do have the required hours to make them eligible for a wildlife rehabilitation permit.

This proposal also establishes in regulation the MOU shall be valid for a term not to exceed three (3) years from the date of issuance and will be issued to meet the needs of the specific department/region at the

discretion of the regional manager. At the end of the three years when the MOU expires, the applicant may apply for the renewal of the MOU by filling out a Permit/Application Renewal form. Upon the renewal of a permit a non-refundable processing fee will be charged.

The department is updating the regulations to reflect the current standards contained in the most recent edition of the WRMSAP Manual.

The original proposal is modified in four different sections:

(e)(2)(E)- Add the following additional language at the end of the section: MOU will be valid for three years. At the end of three years if a permittee wishes to renew a wildlife rehabilitation permit, a permit renewal form FG 542 (Rev 11/05) will be submitted along with a processing fee of \$41.00 to be determined by the department pursuant to Fish and Game Code Section 2150.2 and adjusted annually pursuant to Fish and Game Code 713.

(f)(6)- add "(when available)" after the word found in the third sentence to read – This record shall include the name and address of the person finding the animal, the location where the animal was found (when available), a description of its condition and treatment, the dates it was received and transferred from the facility and the location of its final disposition.

(f)(8)- remove entire section

(f)(9)-remove the "formal" from the second sentence.

The original proposal is modified to add/clarify directions that already permitted facilities will renew their permits by filling out an Application/renewal form FG542(Rev 11/05) and paying only a processing fee every three years. Many currently permitted facilities were unclear if they were going to be considered new applicants once their permit expired.

The words "when available" were added to the written document requirement so that wildlife rehabilitators would not be in violation of the regulations when they received animals from unknown locations.

The veterinarian of Record section was removed because there is already a veterinarian policy in the Wildlife Rehabilitation Minimum Standards and Accreditation Program manual that is adopted in the regulations in section (e)(2)(A).

The word "formal" was removed from the training section to allow for a wider variety of training classes to be taken by wildlife rehabilitators to count for their yearly mandatory training session.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the North Tahoe Conference Center, 5318 North Tahoe Blvd., Kings Beach, California on Friday, May 5, 2006, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mammoth Inn Conference Room, 1 Minaret Road, Mammoth Lakes, California on Friday, June 23, 2006, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before Jun 14, 2006, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on June 23, 2006. All comments must be received no later than June 23, 2006, at the hearing in Mammoth Lakes, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California

94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr. or Jon Snellstrom at the preceding address or phone number. **Craig Stowers, Wildlife Programs Branch, phone (916) 445-3553, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have significant statewide adverse economic directly affecting business, including the ability of California businesses to compete with businesses in other states. At the May 28, 2005 CCWR Advisory Committee meeting, it was determined that a processing fee and an inspection fee to cover the cost by the department and/or the CCWR inspectors was a reasonable suggestion. The departments proposed fees are at a lower level than what was decided upon at the meeting.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None

- (c) Cost Impacts on a Representative Private Person or Business:

A private person or business will be required to pay a new fee pursuant to proposed regulations geared to recover the department's cost of administering the program.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None

- (f) Programs mandated on Local Agencies or School Districts:

None

- (g) Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

- (h) Effect on Housing Costs:

None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: April 28, 2006

John Carlson, Jr.
Executive Director